APPENDIX

Provisions of the General Statutes of North Carolina concerning the revocation of a license to practice medicine.

The following is a reprint of all the provisions of the General Statutes of North Carolina concerning the authority and procedure for the revocation of a license to practice medicine by the Board of Medical Examiners of the State of North Carolina, as set forth in Chapter 90 of the General Statutes:

ARTICLE 1.

Practice of Medicine.

§ 90-1. North Carolina Medical Society incorporated.—The association of regularly graduated physicians, calling themselves the State Medical Society, is hereby declared to be a body politic and corporate, to be known and distinguished by the name of The Medical Society of the State of North Carolina. (1858-9, c. 258, s. 1; Code, s. 3121; Rev., s. 4491; C. S., s. 6605.)

§ 90-2. Board of Examiners.—In order to properly regulate the practice of medicine and surgery, there shall be established a board of regularly graduated physicians, to be known by the title of The Board of Medical Examiners of the State of North Carolina, whch shall consist of seven regularly graduated physicians. (1858-9, c. 258, ss, 3, 4; Code, s. 3123; Rev., s. 4492; C. S., s. 6606; Ex. Scss. 1921, c. 44, s. 1.)

§ 90-3. Medical Society appoints Board.—The Medical Society shall have power to appoint the Board of Medical Examiners. (1858-9, c. 258, s. 9; Code, s. 3126; Rev., s. 4493; C. S., s. 6607.)

§ 90-14. Board may rescind license.—The Board shall have the power to revoke and rescind any license granted by it, when, after due notice and hearing, it shall find that any physician licensed by it has been guilty of grossly immoral conduct, or of producing or attempting to produce a criminal abortion, or, by false and fraudulent representations, has obtained or attempted to obtain, practice in his profession, or is habitually addicted to the use of morphine, cocaine or other narcotic drugs, or is habitually addicted to the use of marijuana, barbiturates, demerol or any other habit forming drug or derivative of such drug, or has by false and fraudulent representations of his professional skill obtained, or attempted to obtain, money or any thing of value, or has advertised or held himself out under a name other than his own, or has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which he holds a license, or is guilty of any fraud or deceit by which he was admitted to practice, or has been guilty of any unprofessional or dishonorable conduct unworthy of, and affecting, the practice of his profession, or has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude, or has been adjudicated a mental incompetent or whose mental condition renders him unable safely to practice medicine. Upon the hearing before said Board of any charge involving a conviction of such felony or other criminal offense, a transcript of the record thereof certified by the clerk of the court in which

such conviction is had, shall be sufficient evidence to justify may appeal to the Supreme Court as hereinafter provided in section 90-14.11. (1953, c. 1248, s. 3.)

§ 90-14.2. Hearing before revocation or suspension of a license.—Before the Board shall revoke or rescind any license granted by it to any physician, it will give to the physician a written notice indicating the general nature of the charges, accusation or complaints preferred against him and stating that the licensee will be given an opportunity to be heard concerning such charges or complaints at a time and place stated in such notice, or to be thereafter fixed by the Board, and shall hold a public hearing not less than thirty days from the date of the service of such notice upon such licensee, at which he may appear personally or through counsel, may cross-examine witnesses and present evidence in his own behalf. A physician who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the physician has his residence. Such licensee or physician may, if he desires, file written answers to the charges or complaints preferred against him within thirty days after the service of such notice, which answer shall become a part of the record but shall not constitute evidence in the case. (1953, c. 1248, s. 3.)

§ 90-14.3. Service of notices.—Any notice required by this chapter may be served either personally or by an officer authorized by law to serve process, or by registered mail, return receipt requested, directed to the licensee or applicant at his last known address as shown by the records of the Board. If notice is served personally, it shall be deemed

to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to addressee or refusal of the addressee to accept the notice. (1953, c. 1248, s. 3.)

§ 90-14.4. Place of hearings for revocation or suspension of license.—Upon written request of the accused physician, given to the secretary of the Board twenty days after service of the charges or complaints against him, a hearing for the purpose of determining revocation or suspension of his license shall be conducted in the county in which such physician maintains his residence, or at the election of the Board, in any county in which the act or acts complained of occurred. In the absence of such request, the hearing shall be held at a place designated by the Board, or as agreed upon by the physician and the Board. (1953, c. 1248, s. 3.)

§ 90-14.7. Procedure where person fails to request or appear for hearing.—If a person who has requested a hearing does not appear, and no continuance has been granted, the Board or its trial examiner or committee may hear the evidence of such witnesses as may have appeared, and the Board may proceed to consider the matter and dispose of it on the basis of the evidence before it. For good cause, the Board may reopen any case for further hearing. (1953, c. 1248, s. 3.)

§ 90-14.8. Appeal from Board's decision revoking or suspending a license.—A physician whose license is revoked or suspended by the Board may obtain a review of

the decision of the Board in the Superior Court of Wake County or in the superior court in the county in which the hearing was held or upon agreement of the parties to the appeal in any other superior court of the State, upon filing with the secretary of the Board a written notice of appeal within twenty days after the date of the service of the decision of the Board, stating all exceptions taken to the decision of the Board and indicating the court in which the appeal is to be heard.

Within thirty days after the receipt of a notice of appeal as herein provided, either by an applicant or a licensee, the Board shall prepare, certify and file with the clerk of the superior court in the county to which the appeal is directed the record of the case comprising a copy of the charges, notice of hearing, transcript of testimony, and copies of documents or other written evidence produced at the hearing, decision of the Board, and notice of appeal containing exceptions to the decision of the Board. (1953, c. 1248, s. 3.)

§ 90-14.9. Appeal bond; stay of Board order.—The person seeking the review shall file with the clerk of the reviewing court a copy of the notice of appeal and an appeal bond of $200 at the same time the notice of appeal is filed with the Board. At any time before or during the review proceeding the aggrieved person may apply to the reviewing court for an order staying the operation of the Board decision pending the outcome of the review, which the court may grant or deny in its discretion. (1953, c. 1248, s. 3.)

§ 90-14.10. Scope of review.—Upon the review of the Board's decision revoking or suspending a license, the case

shall be heard by the judge without a jury, upon the record, except that in cases of alleged omissions or errors in the record, testimony thereon may be taken by the court. The court may affirm the decision of the Board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the accused physician have been prejudiced because the findings or decisions of the Board are in violation of substantive or procedural law, or are not supported by competent, material, and substantial evidence admissible under this article, or are arbitrary or capricious. At any time after the notice of appeal has been filed, the court may remand the case to the Board for the hearing of any additional evidence which is material and is not cumulative and which could not reasonably have been presented at the hearing before the Board. (1953, c. 1248, s. 3.)

§ 90-14.11. Appeal to Supreme Court; appeal bond.—Any party to the review proceeding, including the Board, may appeal to the Supreme Court from the decision of the superior court under rules of procedure applicable in other civil cases. No appeal bond shall be required of the Board. The appealing party may apply to the superior court for a stay of that court's decision or a stay of the Board's decision, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court. (1953, c. 1248, s. 3.)